

facts of the case, and the circumstances surrounding the commission of the crime, were so strong as to prevent the jury agreeing with Mr. Kerr's position on behalf of the prisoner, that at most they should only find him guilty of the lesser crime of manslaughter. All the arguments that were presented to the jury are not up before us for review; the Court has only to deal with the points that have been presented by the reserved case, and such additional points as Mr. Kerr, with the consent of the Crown, has raised. The limitations of the Criminal Code are such that we can only deal with the case on that basis. This Court has been constituted by the Parliament of Canada to deal with questions of law arising out of the trial, and not for the purpose of considering whether, notwithstanding the verdict of the jury, there are circumstances attending the prisoner's life and character that in another quarter might be considered influential in varying the sentence pronounced—the only sentence that could be pronounced by the trial Judge upon the verdict rendered.

The first point brought forward by Mr. Kerr was a question whether there was misdirection, or nondirection, on the part of the trial Judge in regard to the defence of insanity. The Judge clearly charged the jury that the defence had sought to prove insanity on the part of the prisoner, and told them that this would have to be proven beyond reasonable doubt in the minds of the jurors. He told them that, should they take such a view, they could bring in a verdict of "not guilty on the ground of insanity," which would have meant, not that the prisoner would go free, but that he would be detained in custody until some arrangement would be made for his future control—until the Court would direct some course to be followed by the authorities. The Criminal Code places the onus on the prisoner to shew that his condition was such that he would not be found guilty of murder; that he was labouring under natural imbecility or disease of the mind to such an extent as to render him incapable of appreciating the nature and quality of the act, and of knowing that it was wrong. And the learned trial Judge pointed out that this had to be proven "beyond reasonable doubt." In saying this, he did not, as Mr. Kerr sought to shew, go beyond proper bounds. The jury were bound to presume that the prisoner was sane until they were reasonably satisfied that the contrary was proved. If they had reasonable doubts, they could not properly find that the contrary was proved. The prisoner could not well complain of the attitude of the Crown on this branch of the case. Everybody connected with the trial in an official capacity desired to give the jury the fullest possible information on the point in question, and it seems clear that when